

Payments to tax havens (3/9/18)

With the new Corporate Income Tax (CIT) Act in force, there are special rules for payments made to tax havens. This article explores some of the changes and main aspects of withholding tax on such payments.

Payment types

A key type of payment to focus on is dividends, as they attract CIT from 1 January 2018 both when profit is distributed and when payment is made to a tax haven.

In the context of tax havens the law precisely defines the term “payment.” This used to mean payments reducing taxable income, but the definition has been amended as part of the new CIT rules effective from 2018. Withholding tax now applies on payments that cause or will cause changes to the payer’s financial indicators, with the exception of payments for arm’s length purchases of goods and EU/EEA publicly traded securities.

The term “payment” includes –

- interest,
- royalties,
- service fees,
- payments to reimburse actual expenses,
- insurance premiums,
- cash security, and
- down payments.

It is important to note that payments to tax havens include also cases where an account is opened with a Latvian-registered credit institution but the beneficial owner is a person located, established or incorporated in a tax haven.

From 1 January 2018 the term “payment” also covers any advance payments.

The Cabinet of Ministers’ Regulation No. 655 effective from 1 January 2018 blacklists only 25 tax havens (down from 68). [An update on jurisdictions that have signed an international tax information exchange agreement.](#)

Available exemptions

The lawmaker offers a mechanism for obtaining permission not to withhold CIT at source on any payments to tax havens other than consulting fees, dividends, interest or royalties. When claiming an exemption, the payer is required to prove that the payment does not aim to reduce taxable income or taxes payable in Latvia. An exemption should be claimed before the payment by filing an application with the State Revenue Service for waiving section 5(6) of the CIT Act.